

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

In re Delta Dental Antitrust Litigation,
MDL 2931

No. 1:19-cv-06734

This document relates to:

Swiecinski v. Delta Dental Ins. Co. et al.,
No. 1:20-cv-02539

Hon. Elaine E. Bucklo

**STIPULATION REGARDING TIME TO RESPOND TO CLASS ACTION COMPLAINT
AND WAIVER OF SERVICE OF PROCESS**

Plaintiff David J. Swiecinski, DDS (“Plaintiff”) and Defendants¹, by and through their undersigned counsel, respectfully request that this Court enter the below Order regarding Defendants’ time to respond to Plaintiff’s Class Action Complaint. In support of this request, the parties state as follows:

¹ Defendants include Delta Dental Insurance Company; DeltaUSA; Delta Dental Plans Association (“DDPA”); Arizona Dental Insurance Service, Inc. d/b/a Delta Dental of Arizona; Delta Dental Plan of Arkansas, Inc.; Delta Dental of California; Colorado Dental Service Inc. d/b/a Delta Dental of Colorado; Delta Dental of Connecticut, Inc.; Delta Dental of Delaware; Delta Dental of the District of Columbia; Hawaii Dental Service; Delta Dental Plan of Idaho, Inc. d/b/a Delta Dental of Idaho; Delta Dental of Illinois; Delta Dental Plan of Indiana, Inc.; Delta Dental of Iowa; Delta Dental of Kansas Inc.; Delta Dental of Kentucky, Inc.; Maine Dental Service Corporation d/b/a Delta Dental Plan of Maine; Dental Service of Massachusetts Inc. d/b/a Delta Dental of Massachusetts; Delta Dental Plan of Michigan, Inc.; Delta Dental of Minnesota; Delta Dental of Missouri; Delta Dental of Nebraska; Delta Dental Plan of New Hampshire, Inc.; Delta Dental of New Jersey, Inc.; Delta Dental Plan of New Mexico, Inc.; Delta Dental of New York; Delta Dental of North Carolina; Delta Dental Plan of Ohio, Inc.; Delta Dental Plan of Oklahoma; Oregon Dental Service d/b/a Delta Dental of Oregon; Delta Dental of Pennsylvania; Delta Dental of Puerto Rico; Delta Dental of Rhode Island; Delta Dental of South Dakota; Delta Dental of Tennessee; Delta Dental Plan of Vermont, Inc.; Delta Dental of Virginia; Delta Dental of Washington; Delta Dental of West Virginia; Delta Dental of Wisconsin, Inc.; and Delta Dental Plan of Wyoming d/b/a Delta Dental of Wyoming.

1. Plaintiff's Complaint was filed on April 10, 2020 in the United States District Court for the District of New Jersey. The Defendants have not yet been served.

2. On March 27, 2020, the United States Judicial Panel on Multidistrict Litigation (the "JPML") issued a transfer order consolidating fourteen related civil actions that have been filed against various groups of Defendants in multiple district courts. The JPML ordered the actions transferred to the Northern District of Illinois and assigned the Honorable Elaine E. Bucklo for coordinated and consolidated pretrial proceedings.

3. On April 8, 2020, the JPML issued a Conditional Transfer Order ("CTO-1") transferring nine additional related actions to the Northern District of Illinois for consolidation with the multidistrict litigation ("MDL") pending before this Court.

4. And on April 24, 2020, the JPML issued a second Conditional Transfer Order ("CTO-2") transferring Plaintiff's Complaint to the Northern District of Illinois for consolidation with the MDL pending before this Court.

5. As of the date of this filing, a consolidated amended complaint covering all of the related actions in the MDL has not been filed.

6. So as to minimize the burden on the Court and the parties prior to the filing of a consolidated amended complaint, Plaintiff and Defendants have stipulated to the following order:

A. Defendants waive formal service of process pursuant to Federal Rule of Civil Procedure 4(d), and such waiver shall date back to the date of filing of Plaintiff's Complaint, April 10, 2020.

B. If the Court orders the plaintiffs in the MDL to file a consolidated amended complaint covering the related actions, Defendants shall, as permitted by Rule 12 of the Federal Rules of Civil Procedure, answer, move, or otherwise plead in response to the operative

complaint within sixty (60) days after plaintiffs in the MDL serve a consolidated amended complaint. If Defendants move in response to the operative complaint, Plaintiff will have the same time to oppose as provided to Defendants to move.

C. If the Court orders that the plaintiffs in the MDL do not need to file a consolidated amended complaint, Defendants shall, as permitted by Rule 12 of the Federal Rules of Civil Procedure, answer, move, or otherwise plead in response to the operative complaint within thirty (30) days after service of such ruling. If Defendants respond to the operative complaint by filing a motion under Rule 12, Plaintiff shall have thirty (30) days to file an opposition, after which Defendants shall have twenty-one (21) days to file a reply.

D. Plaintiff and Defendants further stipulate and agree that the entry into this stipulation by Defendants shall not constitute a waiver of any affirmative defenses under Rule 8 of the Federal Rules of Civil Procedure, a waiver of any right to compel arbitration of any claim or issue in this or any other action, or a waiver of any other statutory or common law defenses that may be available to Defendants in this and the other related actions. Defendants expressly reserve their rights to raise any such defenses in response to either the current Complaint or any amended complaint that may be filed relating to this action.

E. This action is stayed for all purposes and shall not proceed except as outlined in this Stipulation or by order of the Court.

Dated: June 12, 2020

Respectfully submitted,

/s/ Charles J. Kocher

Simon B. Paris

NJ ID # 049821996

Patrick Howard

NJ ID # 022802001

Charles J. Kocher

NJ ID # 016952004

**SALTZ, MONGELUZZI, &
BENDESKY, P.C.**

1650 Market Street, 52nd Floor

Philadelphia, PA 19103

Telephone: (215) 496-8282

Facsimile: (215) 754-4443

sparis@smbb.com

phoward@smbb.com

ckocher@smbb.com

*Counsel for Plaintiff David J. Swiecinski,
DDS*

Dated: June 12, 2020

Respectfully submitted,

/s/ Kathy L. Osborn

Kathy L. Osborn
Ryan M. Hurley
Anna Marie Behrmann
FAEGRE DRINKER BIDDLE & REATH LLP
300 N. Meridian St., Suite 2500
Indianapolis, IN 46204
(317) 237-8261
kathy.osborn@faegredrinker.com
ryan.hurley@faegredrinker.com
anna.behrmann@faegredrinker.com

Colby Anne Kingsbury
FAEGRE DRINKER BIDDLE & REATH LLP
311 S. Wacker Dr., #4400
Chicago, IL 60606
(312) 212-6573
colby.kingsbury@faegredrinker.com

Jeffrey S. Roberts
Joshua P. Mahoney
FAEGRE DRINKER BIDDLE & REATH LLP
1144 15th Street, Suite 3400
Denver, CO 80203
(303) 607-3500
jeff.roberts@faegredrinker.com
joshua.mahoney@faegredrinker.com

Counsel for Defendants Delta Plan of Arkansas, Inc., Delta Dental of Indiana, Inc., Delta Dental of Kentucky, Inc., Delta Dental Plan of Michigan, Inc., Delta Dental Plan of New Mexico, Inc., Delta Dental of North Carolina, Delta Dental Plan of Ohio, Inc., and Delta Dental of Tennessee

/s/ Benjamin W. Hulse

Jerry W. Blackwell
Benjamin W. Hulse
Gerardo Alcazar
BLACKWELL BURKE P.A.
431 South Seventh Street
Suite 2500
Minneapolis, MN 55415
612-343-3200

/s/ Britt M. Miller

Britt M. Miller
Daniel K. Storino
MAYER BROWN LLP
71 South Wacker Drive
Chicago, IL 60606
(312) 782-0600
bmiller@mayerbrown.com
dstorino@mayerbrown.com

Mark W. Ryan
MAYER BROWN LLP
1999 K Street NW
Washington, DC 20006
(202) 263-3000
mryan@mayerbrown.com

Counsel for Defendants Delta Dental Plans Association, DeltaUSA, Delta Dental of Connecticut Inc., Delta Dental Plan of Idaho, Inc. d/b/a Delta Dental of Idaho, Dental Service of Massachusetts, Inc. d/b/a Delta Dental of Massachusetts, Delta Dental of Missouri, Delta Dental of New Jersey, Inc., Oregon Dental Service d/b/a Delta Dental of Oregon, Delta Dental of Washington, and Delta Dental Plan of Wyoming d/b/a Delta Dental of Wyoming

/s/ Howard Ullman

Stephen V. Bomse
Russell P. Cohen
Howard Ullman
Nicole Gelsomini
ORRICK HERRINGTON & SUTCLIFFE LLP
The Orrick Building
405 Howard Street
San Francisco, CA 94105
415-773-5700
sbomse@orrick.com
rcohen@orrick.com
hullman@orrick.com

blackwell@blackwellburke.com
bhulse@blackwellburke.com
galcazar@blackwellburke.com

Lori Swanson
Mike Hatch
SWANSON HATCH, P.A.
431 South 7th Street
Suite 2545
Minneapolis, MN 55415
612-315-3037
lswanson@swansonhatch.com
mhatch@swansonhatch.com

*Counsel for Defendants Delta Dental of
Minnesota and Delta Dental of Nebraska*

/s/ David E. Dahlquist
David E. Dahlquist
WINSTON & STRAWN LLP
35 W. Wacker Drive
Chicago, IL 60601-9703
312-558-5600
ddahlquist@winston.com

*Counsel for Defendants Arizona Dental Insurance
Service, Inc. d/b/a Delta Dental of Arizona,
Hawaii Dental Service, Delta Dental of Iowa,
Delta Dental of Kansas Inc., Maine Dental
Service Corporation d/b/a Delta Dental Plan of
Maine, Delta Dental Plan of New Hampshire,
Inc., Delta Dental Plan of Oklahoma, Delta
Dental of Rhode Island, Delta Dental of South
Dakota, and Delta Dental Plan of Vermont, Inc.*

/s/ Allison W. Reimann
Allison W. Reimann
GODFREY & KAHN, S.C.
One East Main Street
Suite 500
Madison, WI 53703
608-257-3911
areimann@gklaw.com

*Counsel for Defendant Delta Dental of
Wisconsin, Inc.*

Emily Luken
ORRICK HERRINGTON & SUTCLIFFE LLP
Columbia Center
1152 15th Street, N.W.
Washington, D.C. 20005
202-339-8400
eluken@orrick.com

Brian Joseph Murray
Timothy D. Elliot
RATHJE WOODWARD LLC
300 E. Roosevelt Road
Suite 300
630-668-8500
Wheaton, IL 60187
bmurray@rathjewoodward.com
telliott@rathjewoodward.com

*Counsel for Defendants Delta Dental
Insurance Company, Delta Dental of
California, Delta Dental of Delaware, Delta
Dental of the District of Columbia, Delta
Dental of New York, Delta Dental of
Pennsylvania, Delta Dental of Puerto Rico,
and Delta Dental of West Virginia*

/s/ Scott D. Stein
Scott D. Stein
Colleen M. Kenney
SIDLEY AUSTIN LLP
One South Dearborn Street
Chicago, IL 60603
(312) 853-7000
sstein@sidley.com
ckenney@sidley.com

*Counsel for Defendants Colorado Dental
Service, Inc. d/b/a Delta Dental of
Colorado, Delta Dental of Illinois, and
Delta Dental of Virginia*

SO ORDERED this _____ day of June, 2020.

HONORABLE ELAINE E. BUCKLO

CERTIFICATE OF SERVICE

I hereby certify that on June 12, 2020, I caused a true and correct copy of the foregoing STIPULATION REGARDING TIME TO RESPOND TO CLASS ACTION COMPLAINT AND WAIVER OF SERVICE OF PROCESS to be filed with the Clerk of the United States District Court for the Northern District of Illinois, Eastern Division, using the electronic case filing system of the Court. The electronic case filing system sent a “Notice of E-Filing” to the attorneys of record in this case.

/s/ Britt M. Miller

Britt M. Miller